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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/489,601	01/20/2000	Evgeniy M. Getsin	IACTP016	6034

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EXAMINER

KOENIG, ANDREW Y

ART UNIT PAPER NUMBER

2611

DATE MAILED: 02/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	Application No. 09/489,601	Applicant(s) GETSIN ET AL.	
	Examiner Andrew Y Koenig	Art Unit 2611	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 20 December 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The reply was filed after the date of filing a Notice of Appeal, but prior to the date of filing an appeal brief. The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: _____.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.


 CHRIS GRANT
 PRIMARY EXAMINER

Art Unit: 2611

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments filed 20 December 2004 have been fully considered but they are not persuasive.

On page 2 of the response, the applicant argues that "the references do not teach "comparing the identifier with the identifier of a scheduled event; and beginning playback of the event simultaneously ... if the comparison renders a match" as recited in claims 1."

The applicant argues that "the Peterson patent teaches away from beginning playback upon confirmation of a match of identifiers as the system of Peterson provides registration of content prior to a start time, thus the system knows the user has the content and only after the start time can a user initiate access to the content." The examiner disagrees; nowhere within Peterson does the reference explicitly teach away from Peterson. Merely playing back material without the use of identifiers is not teaching away from the combination of Peterson and Faris.

The applicant further argues that Faris does not compare identifiers but instead simply specifies a time at which a predefined portion of a game is to occur. The examiner disagrees; Faris teaches that each local device is globally time synchronized (pg. 8, para. 0104) for simultaneous presentation of information to a plurality of the clients (pg. 8, para. 0105, pg. 9, para. 0114). In order to perform displaying information simultaneously, the user incorporates global positioning system (GPS) or can use the network time protocol (NTP) (pg. 9, para. 116), each of which inherently has some form of identifiers in order to indicate the time. Clearly, there is a comparison of the received

identifier of Peterson (e.g. common premier time), with the time in order to launch an event, such as an audio or video clip (pg. 13, para. 0138).

The applicant argues that Faris fails to suggest beginning playback when identifiers match. The examiner disagrees; as discussed above, Faris teaches matching identifiers, which are inherent to the GPS/NTP signals, which the display time of an event. This in itself is a teaching to begin playback when identifiers match.

The applicant further argues that Faris patent teaches away from comparing identifiers to begin playback because the Faris patent describes a system where it is already known that the client device has the content, and thus there is no reason to compare identifiers to begin playback. The examiner disagrees; first, the claims do not preclude the scenario of receiving (and knowledge) of content of the playback device. Second, in a time sensitive environment (as in Faris), it is essential that event are synchronized in order to provide a fair and competitive environment for displaying information (pg. 13, para. 138), therefore the reason to compare identifiers is for synchronized playback of information (pg. 13, para. 138).

The applicant argues that Peterson does not teach or suggest, "ascertaining the identifier of the stored event stored in memory of the client apparatuses utilizing the network, as recited in claim 1. The examiner disagrees; Peterson teaches receiving the programming and storing the event in memory utilizing the network (col. 8, ll. 18-27). Even though Peterson may not explicitly teach an identifier with the received programming, an identifier of some form must exist in order to access the program from storage. Accordingly, Peterson does teach, "ascertaining the identifier of the stored

event stored in memory of the client apparatuses utilizing the network.” The examiner recognizes that the invention is different from the current interpretation, but there is no language in the claim to preclude the interpretation. The applicant recognizes this aspect in that, “the Peterson reference already knows that content is available on the client device as the client device has previously registered the content with a host system, and where the host system defines a window of time within which a user can access the content.” Even though claim 1 is a method, there is nothing in the claim that necessitates that the ascertaining the identifier of the event utilizing the network has any temporal relationship to the event being stored in memory. Consequently, as long as the event is stored in memory and the identifier is ascertained via the network, the limitations of the claim has been met.

The applicant argues that the start “time” could not be an identifier, because the start time parameter of Faris is not an “identifier of the event stored in the memory” or “an identifier of a schedule event.” The examiner disagrees, there is nothing in the claims describing the scope of the identifier, in other words, there is nothing in the claims to preclude an identifier uniquely correlated to an event (Peterson) and specifying a time to display the information (Faris).

The applicant argues that there is no motivation to combine Peterson and Faris for simultaneous playback as Peterson specifically defines a window of time. The examiner disagrees; the motivation to combine is derived from the secondary reference, Faris, in that Faris teaches that for providing synchronized presentation of content for each of the devices (pg. 4, para. 0048, pg. 13, para. 0138). Accordingly, as taught by

the secondary reference, Faris teaches modifying the window of time of Peterson to a time instance to require simultaneous access to content.


The applicant argues that the applied references fail to teach or suggest comparing an identifier of an event stored in memory of the client apparatus with an identifier of a scheduled event to initiate the playback when a match is confirmed. The examiner disagrees; Peterson describes identifying content at a client device and generating authorization to allow a user to access content at a later time. Faris teaches playback material synchronized with plural client devices, which using a global time system and clearly must compare some form of identifiers in order to launch the program. As discussed in the rejection and in the above discussion, there is motivation to combine Peterson and Faris, consequently the mere fact that Peterson does not teach comparing the identifiers to begin playback is inconsequential in that there is nothing in the limit the scope of the identifier of the event.

The applicant argues that Faris fails to teach or suggest comparing identifiers to cause the beginning of playback when a match is confirmed. The examiner disagrees; Faris teaches a system that compares time stamps from a global time source and launches events (pg. 13, para. 0138). Clearly, in order to launch the event, there is a comparison of identifiers. Again, the examiner notes that there is nothing limiting the scope of the claimed "identifiers" to preclude the instant interpretation. The applicant further argues that system intentionally prevents playback of a game until later designated times. The examiner notes that this does not preclude playing back at a

specific time. Further, Faris teaches the use of time damps in order to decrypt information at the precise instant desires (pg. 13, para. 0138, 0140).

The applicant argues that the Peterson and Faris references fail to teach or suggest ascertaining an identifier of the event stored in the memory utilizing the network. The applicant argues that both Peterson and Faris require prior registration and/or logging in before users can acquire start times. The examiner notes that there is nothing in the claims to preclude this interpretation. The applicant further argues that both Peterson and Faris already know that the client devices include the content, and thus, there is no reason for ascertaining whether the client has a predefined content stored. The examiner disagrees; claim 1 merely recites, "ascertaining the identifier of the event stored in the memory of the client apparatuses utilizing the network." There is no limitation ascertaining whether the client has a predefined content stored, and do not preclude the instant interpretation of Peterson.

The applicant argues that there is no motivation to modify a window of time of Peterson, which the user is allowed to access the content at their convenience with the simultaneous playback of Faris. The examiner disagrees, Faris teaches the motivation for modifying a time window, specifically in that it provide for synchronized events such as video clips (pg. 4 para. 0138).



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